

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** 04/18/2012  
**POSITION:** Neutral

**BILL NUMBER:** AB 2618  
**AUTHOR:** Ma, Fiona

### **BILL SUMMARY:** Sales and use taxes: auction: vehicles.

This bill would require any person making a sale at auction or a licensed auto dismantler to only accept resale certificates from licensed dealers, dismantlers, auto repair dealers, or scrap metal processors.

### **FISCAL SUMMARY**

According to the Board of Equalization (BOE), this bill would result in annual gains of about \$5 million.

The BOE anticipates costs to implement this bill would be insignificant and absorbable.

### **COMMENTS**

The Department of Finance's position on this bill is neutral. This bill would assist in addressing California's tax gap; the difference between taxes owed to the state and the amount paid.

*Note: the revenue estimate originally released by the BOE referenced a \$67 million gain. However, the \$67 million reflects total taxable sales, not the revenue gain. We have been advised that BOE will revise their revenue estimate to annual gains of about \$5 million.*

### **ANALYSIS**

#### 1. Programmatic Analysis

**Under current law**, sales tax is imposed on all retailers for the privilege of selling tangible personal property at retail in this state. In California, every person engaged in the business of selling vehicles must obtain a license with the Department of Motor Vehicles (DMV). These licensed dealers are currently allowed to accept resale certificates from purchasers of vehicles without regard to the purchasers business activity (i.e. the resale certificate could relate to a restaurant business). In this example, the purchaser must submit use tax to the DMV when the vehicle is registered. Through audits, the BOE has found this area of the law to be subject to high non-compliance. This non-compliance includes both non-reporting, failure to register the car and under reporting use tax due by reporting an amount lower than the original purchase price. This issue is most prevalent among salvage auto auction transactions.

**This bill would** require licensed auto dismantlers and auto auctioneers to only accept resale certificates from licensed dealers, dismantlers, auto repair dealers, or scrap metal processors. The law change would require all other transactions to be treated as a retail transaction, with sales tax due at the time of purchase. This solution appears reasonable and appropriate to help address the state's tax gap.

Analyst/Principal S.Rios	Date	Program Budget Manager Mark Hill	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

**BILL ANALYSIS--(CONTINUED)****Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

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**ANALYSIS** (continued)

## 2. Fiscal Analysis

According to the BOE, this law change would increase compliance and result in annual collections of about \$5 million. BOE staff conducted a 6-month study on 140,000 California auto auctioneer transactions and identified sales of vehicles to non-dealers. Staff then examined DMV registration records and found that 41 percent of the vehicles sold were never registered, and for those registered that about three-fourths of the purchase price was reported to DMV.

According to the BOE, costs to implement this law change would be insignificant and absorbable.

	SO	(Fiscal Impact by Fiscal Year)							
Code/Department	LA	(Dollars in Thousands)							
Agency or Revenue	CO	PROP					Fund		
Type	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	Code
1149/Sale Use Tax	RV	Yes		-----	See Fiscal Analysis	-----			0001
0860/Equalization	SO	No		-----	No/Minor Fiscal Impact	-----			0001